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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,892	10/23/2003	Billy Rabello	Rabello	9001
33303	7590	09/08/2005	EXAMINER SMITH, KIMBERLY S	
MARCIA A. DEVON DEVON & ASSOCIATES 400 OCEANGATE BLVD., SUITE 800 LONG BEACH, CA 90802			ART UNIT 3644	PAPER NUMBER
DATE MAILED: 09/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/691,892

Applicant(s)

RABELLO, BILLY

Examiner

Kimberly S. Smith

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3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In response to applicant's argument that the Applicant's invention is for use with a leash and has storage containers suitable for use to provide the pet with food and water but also to carry the pet owner's personal effects as well as the device being used with a retractable as well as a conventional leash, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.
2. The Applicant has argued against the Williams, US 2002/0083900 reference as if the claims were rejected as anticipated by the reference instead of the obviousness rationale to under which they were rejected. As the Applicant has not provided any arguments against or addressed the obviousness rationale applied thereto, the rejections stand. With regards to the Applicant's statement that Williams mentions attaching a dog leash but it is so cumbersome to use, the Williams design with a dog leash that the user will be unlikely to use it with a leash. As Williams clearly shows the device in use with a dog leash in Figures 6A and 6B, this argument is considered spurious and does not overcome the rejection of record.

### ***Drawings***

3. The drawings were received on 06/27/05. These drawings are approved.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: rim of dish (160).

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, it is unclear as to how the leash retainer mechanism provides portable storage *within* the dog leash?

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, US 2002/0083900.

Williams discloses a leash handle assembly comprising a hollow housing (1) having an opening and forming a grip (4), a leash retainer mechanism (100, 11), at least one container connected to the outside of the housing (7) whereby a looped dog leash (as viewed in Figure 1B) is attached to the leash retainer mechanism. However, Williams does not disclose the container being releasably connected to the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the container releasable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

Regarding claim 2, Williams discloses *inter alia* a leash handle comprising a leash retainer mechanism within the housing (100, 11), a storage compartment (4), an opening in said forward facing end of the first compartment (considered to be obvious at 100 for the insertion of the leash), a second opening through the top end of the storage compartment (at 8), a first container (1a) and a first container retaining mechanism (7a) and a second container (1b) and a second container retaining mechanism (7b). . However, Williams does not disclose the container being releasably connected to the leash handle assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the container releasable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

Regarding claim 3, Williams as modified discloses a storage compartment (5) formed within the hollow housing.

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Regarding claim 4, Williams as modified discloses the invention substantially as claimed including the storage compartment having a cover (8). However, Williams as modified does not disclose the cover is attached by a pin. It would have been an obvious matter of design choice to use a hinge attachment means instead of a screw top attachment means, since applicant has not disclosed that the hinge solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any known attachment means.

Regarding claim 5, Williams as modified discloses a leash retainer mechanism including a spring-loaded pin which has an engaged and disengaged position (i.e. clip 11 is of the type known in the art to include a spring-loaded pin engaging with the opening aperture).

Regarding claim 6, Williams discloses the first container and the second container each have a dish and a removable lid.

#### *Allowable Subject Matter*

9. Claim 13 is allowed.

#### *Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

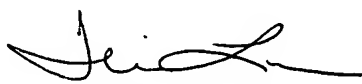
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 571-272-6909. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly S Smith  
Examiner  
Art Unit 3644

kss

  
TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER